

**PATENT**

Amendment dated March 25, 2008

Reply to Office Actions of September 12, 2007 &amp; February 26, 2008

Thought, Inc. Attorney Docket No.: 0036-023

Serial No. 10/046,894

**REMARKS**

In the Office Action of September 12, claims 28-37 directed to a system, method and software for providing persistence of complex data objects and their data relationships were pending. The Examiner has objected to claims and rejected claims as follows:

1. Claims 28-37 were provisionally rejected under non-statutory double patenting over co-pending applications over claims 1 - 17 of copending Application No. 10/382,302; claims 1-15 of copending Application No. 10/158,672; claim1-14 of copending Application No. 10/386,011; claims 1-15 of copending Application No. 11/415,975; claims 1-10 of copending Application No. 11/702,939; and claims 1-10 of copending Application No. 11/702,955, which the examiner indicates can be resolved by a terminal disclaimer, that applicant provides in the response below.
2. Claims 28 – 37 were objected to because of the following alleged informalities related to use of the terms “API”, “CDOG”, “EJB” in the claims and for allegedly not clearly defining them before using..
3. Claims 31 – 33 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as being generally narrative.
4. Claims 34 – 37 were rejected under 35 U.S.C. 101, as being directed to

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software modules that is regarded as non-statutory subject matter.

With the above amendment, claims 28-37 (all of the prior claims) have been canceled without prejudice, and new claims 38-47 have been added that correspond to the amended subject matter of cancelled claims 28-37. Such amendments are non-narrative and set forth clearly the computer system that is being claimed along with clear descriptions of the software implemented methods that are more specifically described in the specification regarding as system wherein complex objects are being persisted as complex data object graphs and such objects can be created, updated, deleted and changed with such changes being persisted to a permanent data source. Such amendments are made to expedite the prosecution of this case, only. Applicant reserves the right to assert the deleted or canceled subject matter in this case, or in a continuing application. After entry of this amendment, Claims 38-47 are active in the case. The above rejections are addressed in part by the present amendments and are otherwise traversed by the arguments that follow.

**PROVISIONAL DOUBLE PATENTING AND THE TERMINAL DISCLAIMER**

The owner of 100% (one hundred percent) interest in the instant application, (Thought, Inc.), hereby and through their undersigned attorney disclaims except as provided below, the terminal part of the statutory term of any patent granted on the instant application that would extend beyond the earliest expiration date of the full statutory term of any patent granted on the subject matter of copending applications as follows: claims 1 - 17 of copending Application No. 10/382,302; claims 1 - 15 of

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copending Application No. 10/158,672; claim1 - 14 of copending Application No. 10/386,011; claims 1 – 15 of copending Application No. 11/415,975; claims 1 – 10 of copending Application No. 11/702,939; claims 1 – 10 of copending Application No. 11/702,955, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the earlier expiring patent granted on either of the said reference applications, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal

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disclaimer filed prior to its grant.1

**THE AMENDMENTS**

New base claims 38 and 41 have been amended to clarify a system and software wherein a complex data object, data object graph or portion of a data object graph is persisted to a permanent data source by a persistence manager that monitors transactions that are changes to the data of the object, accesses a persistence associated programming interface (API) and delegates persistence of the transacted changes to a persistence layer that accesses the data source to provide persistence of a complex data object (CDO), a data object graph or a portion of a data object graph as a CDOG (complex data object graph) to a permanent data source.

As appreciated by the Examiner the terms "API", "CDOG" and "ejb" are well-known term and/or concepts in the art and are defined within the current specification. However, for expediency, the abbreviations have been eliminated in favor of the full phraseology for the above terms and concepts.

Moreover, the meaning of transparent persistence as defined in the present specification requires that the data from complex data objects and their relationships

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within an application be persisted without the application being in communication with the software that is persisting such information as a complex data object graph.

Accordingly, these formalities are believed overcome by the above amended claims.

**THE 112, SECOND PARAGRAPH REJECTION**

Claims 31 – 33 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as being generally narrative. The claim format of corresponding claims 41-43 has been changed away from the narrative form, and has been amended to clearly set forth the invention in a proper US claim format.

Thus, this formality is believed to be obviated by the above amendment.

**THE 101, NON-STATUTORY CLAIM REJECTION**

Claims 34 – 37 were rejected under 35 U.S.C. 101, as being directed to software modules that is regarded as non-statutory subject matter. The present claims are directed to a computer system whose memory has loaded such software modules or logic, or they are accessible to the computer system memory. Thus, the

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claimed computer system with software implemented methods represented by such software modules or logic is proper statutory claims subject matter.

Accordingly, such formality issues are believed overcome by the above amendment.

**CONCLUSION**

Accordingly, applicant respectfully submits that the above objections and rejections have been overcome, and should be withdrawn. In view of the terminal disclaimer, which obviates the provisional double patenting rejections, and the amendments (including corrections of informalities) and remarks, the present application is believed to be in condition for allowance. Based upon the aforementioned comments and amendments, it is urged that the claims are in condition for allowance, as is the remainder of the subject patent application. Favorable reconsideration is respectfully requested.

Applicant suggests that the Examiner set up a personal interview with the inventor and their agent, J G Mullins prior to any issuance of a further office action in order to expedite the prosecution of this case. Any minor formalities that have